

**INUIT ISSITTORMIUT SIUNNERSUISOQATIGIIFFIAT**  
***INUIT CIRCUMPOLAR COUNCIL (ICC)***

**Challenges with EU and the term Indigenous Peoples in international agreements**

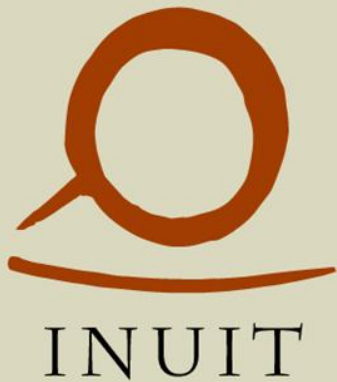
Parnuna Egede

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EU Arctic Indigenous Peoples Dialogue

Brussels, October 18, 2013





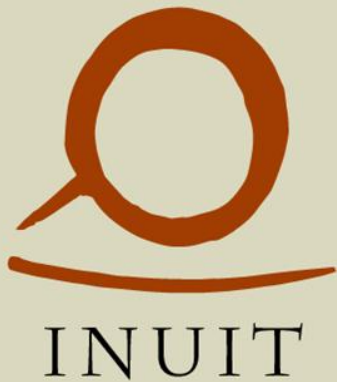
## Challenges with EU and the term Indigenous Peoples in international agreements

**2007:**

Adoption of the United Nations Declaration on the Rights of Indigenous Peoples

The **UNDRIP** sets minimum standards in international and customary law and practice, including the recognition of Indigenous Peoples as “Peoples” and not “populations” or “communities”.

Where “**communities**” refers to a group of individuals with individual rights, “**peoples**” is a legal term that includes collective rights and the need to consult and obtain the free, prior and informed consent of Indigenous Peoples in the implementation of agreements. Thus, the choice of the wording has **legal implications**.



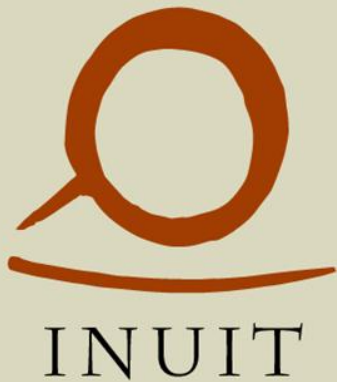
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**January 2013:**

UNEP 5<sup>th</sup> session of the Intergovernmental Negotiating Committee (INC-5) to prepare a global legally binding instrument on Mercury

Canada submits preambular text that recognizes the impacts of mercury contamination on Indigenous Peoples in the Arctic and Arctic ecosystems.

EU submits similar language on the initiative of Denmark, Sweden and Finland. But internal disagreements with France and the United Kingdom forces the regional group to retain the use of “communities” and not “peoples” in their common proposal.



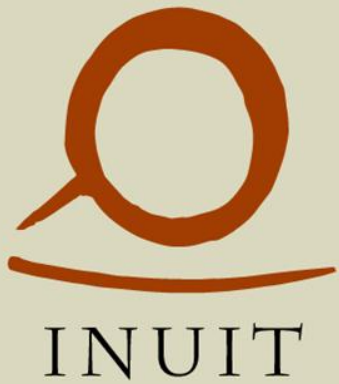
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### **Details of EU internal disagreements:**

UK is unable to support the proposed text with the term “indigenous peoples”, but notes that it can accept references to “indigenous communities”. No reason is given.

France says the same as UK, explains that it goes against their national constitution and initially claims that they never endorsed UNDRIP.

Members of both state delegations lack knowledge about UNDRIP and the term indigenous peoples, and keep referring to orders from their offices back home.

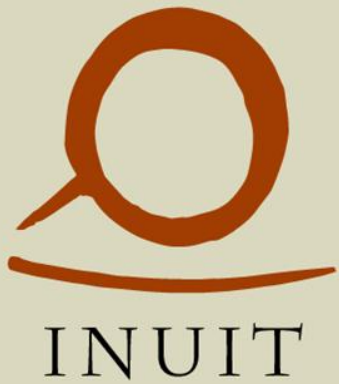


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Both France and UK voted for the UN Declaration on the Rights of Indigenous Peoples in 2007. On the day of the adoption, France stated as follows:

“For France, by virtue of the principle of the indivisibility of the Republic and in keeping with the basic principle of equality regarding its corollary, the principle of non-discrimination, collective rights cannot take precedence over individual rights. (...) Article 36, concerning the right of indigenous peoples to maintain international relations, is understood within the framework of constitutional norms in that area.”

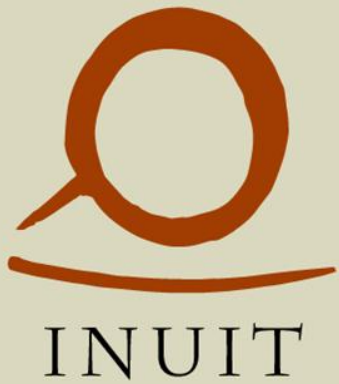
Source: Official Records of the 61st Session of the UN General Assembly  
A/61/PV.108



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But on the day of the adoption of the UNDRIP by the UN General Assembly, France is also noted to have stated:

“FABIEN FIESCHI (France) believed that the Declaration was an essential step forward in the promotion and protection of human rights for all. France had supported all multinational initiatives for indigenous peoples. France believed that the Declaration referred to many of the rights that had been elaborated in the French Constitution.”

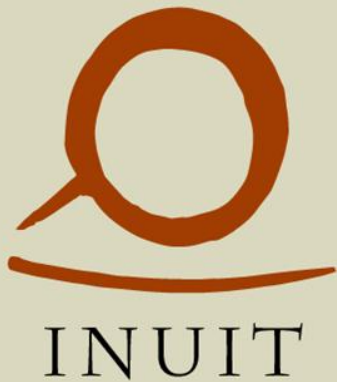


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Despite this reservation with reference to the French Constitution, during the Universal Peer Review Mechanism in 2011 France recommended Australia to:

“Continue in particular the process of constitutional reform in order to better recognize the rights of indigenous peoples”.

Source: UN HRC Universal Peer Review Mechanism, Australia, A/HRC/17/10, 24 March 2011



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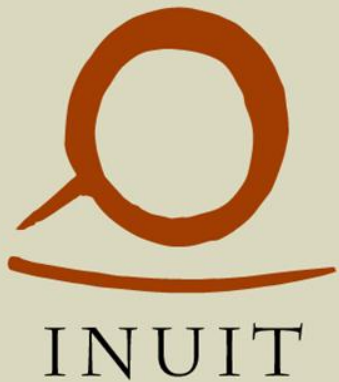
Later that same year, recommendations from the Special Rapporteur on the rights of indigenous peoples to France is that:

“Concerted efforts should be made to ensure that officials of both the French and New Caledonia governments and members of the New Caledonia Congress, as well as New Caledonia society, in general, are aware of the Declaration on the Rights of Indigenous peoples and its implications.”

Source: Report of the Special Rapporteur on the rights of indigenous peoples, James Anaya, The situation of Kanak people in New Caledonia, France, A/HRC/18/35/Add.6, 14 September 2011





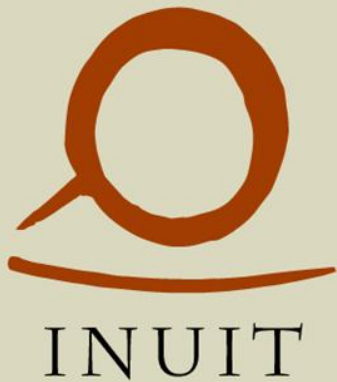


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During the Convention on Biological Diversity process to develop the Nagoya Protocol in **2011**, France and UK is unable to support the term “indigenous peoples”, and only accept references to “indigenous communities”.

During Rio+20 in **2012** EU has no problems with including language on “indigenous peoples”. The Rio+20 outcome document “The Future We Want” is not legally binding.

During the INC mercury negotiations in **2013** France and UK again blocks EU from including the term “indigenous peoples” and only accept “indigenous communities”. The Minamata Convention on Mercury is legally binding.

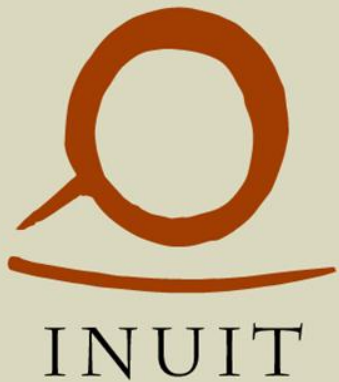


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Internal disagreements in EU continue, even after EU statement in 2012:

“The EU has a longstanding engagement towards indigenous peoples which is anchored in the context of the United Nations Declaration on the Rights of Indigenous Peoples. We have made human rights a central aspect of EU’s external action: be it in the political dialogues with partner countries, be it through action in multilateral forums such as the United Nations, or be it through development policy and assistance. Indigenous peoples’ rights, as defined in the UN Declaration, form an integral part of all these aspects of the EU’s human rights policy.”

Source: European Union, "Statement on behalf of the European Union", Expert Mechanism on the Rights of Indigenous Peoples Fifth Session (Geneva, 9–13 July 2012), 11 July 2012



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Inuit Circumpolar Council – Greenland is concerned about these contradicting signals from EU, which have a direct impact on the development of international agreements.

### **There seems to be a need for:**

Commitment, coherent signals and effective **implementation** of UNDRIP by EU member states, both in voluntary and **legally binding** agreements

**Awareness** among EU member state government officials of the Declaration on the Rights of Indigenous Peoples, and its **implications**